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Court: Mom's hostility to DSHS no reason to sever parental rights

Just being belligerent with caseworkers from the state Department of Social and Health Services is not reason enough to terminate a parent's rights to raise her child, a judge ruled last week.

By [Jefferson Robbins](#)

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SPOKANE — Appeals judges have ruled that a Douglas County mother's right to parent her 6-year-old son cannot be terminated because of her "belligerent manner" toward state child-care agents.

The state Court of Appeals on Tuesday reversed Superior Court Judge John Antosz's decision to terminate the parental rights of the mother, known in court records only by the initials B.R.

Antosz, a Grant County judge who heard the case in Douglas County court, found the mother unfit despite counselors' reports that she successfully completed all court-ordered treatment and had "a great bond" with her child.

B.R.'s manner toward caseworkers from the state Department of Social and Health Services (DSHS); insufficient change in her "attitude and behavior"; and a diagnosis of personality disorder were among reasons Antosz cited in declaring her unfit to parent.

The case began in late 2008, when the boy was nearly 2. B.R. handed the child to an uncle while she was cooking; the uncle then dangled the boy by one leg from a second-story balcony.

The mother intervened and seized the child away from the uncle, according to court papers. But a neighbor's report of the incident reached the DSHS, which took custody of the boy and sued to end the mother's parental rights.

B.R. underwent 25 counseling sessions over the next year, with her counselor calling the treatment "quite successful." She also scored very highly on assessments of visitations with her son, with supervisors reporting "a very strong bond there."

But DSHS caseworkers described her as “hostile and belligerent,” and argued against restoring custody. Two psychologists diagnosed her with a “personality disorder not otherwise specified,” or PDNOS, saying it “manifested itself in particular with the way that B.R. interacted with DSHS staff.”

The Mayo Clinic defines a personality disorder as “a rigid and unhealthy pattern of thinking and behaving no matter what the situation”; PDNOS is a diagnosis given when a patient’s symptoms do not fit the main categories of personality disorder defined in psychology. Both the psychologists said the mother could respond well to treatment.

B.R. appealed Antosz’s ruling in August 2011. The Court of Appeals, with Judge Kevin Korsmo writing for the three-judge panel, ruled there was not enough evidence to justify parental termination. Mental illness alone does not render a parent unfit, Korsmo wrote, and B.R.’s attitude toward DSHS staff should not have figured into Antosz’s decision.

“While B.R. had a duty to comply with all ordered services, no statute or rule required her to do so with a smile on her face,” Korsmo wrote.

The boy’s father had little contact with the family, and lost his parental rights for noncompliance. DSHS did not investigate the uncle who dangled the child.

DSHS has 30 days to pursue an appeal or ask the appellate court to reconsider. Assistant Attorney General Amee Tilger, who managed the appellate case for the agency, said the state hasn’t decided whether it will pursue one of those options.

The mother’s attorney, Kristina Nichols of Spokane, said the child remains in state custody. Until the court ruling is finalized, she said, “we are still in the same setting or situation as we were a month ago, meaning the mother’s rights are still officially terminated.”